

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:				
State Admin Rule Filing Id:		Time filed:				
		Agency No.		Rule No.		Section No.
Utah Admin. Code Ref (R no.):	R	156	-	3a	-	102
Changed to Admin. Code Ref. (R no.):	R		-		-	
1. Agency:	Commerce/Division of Occupational and Professional Licensing					
Room no.:						
Building:	Heber M. Wells Building					
Street address 1:	160 East 300 South					
Street address 2:						
City, state, zip:	Salt Lake City UT 84111-2316					
Mailing address 1:	PO Box 146741					
Mailing address 2:						
City, state, zip:	Salt Lake City UT 84114-6741					
Contact person(s):						
Name:	Phone:	Fax:	E-mail:			
Rich Oborn	801-530-6767	801-530-6511	roborn@utah.gov			

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2. Title of rule or section (catchline):	Definitions
3. Type of notice:	New ___; Amendment XX; Repeal ___; Repeal and Reenact ___
4. Purpose of the rule or reason for the change:	The Division and Architects Licensing Board are proposing amendments to provide further definition of architectural work that is incidental to the practice of engineering.
5. This change is a response to comments from the Administrative Rules Review Committee.	No XX; Yes ___
6. Summary of the rule or change:	The proposed amendments add language that allows engineers to engage in architectural work that is incidental to the practice of engineering if it affects an area not exceeding 3,000 square feet when structural elements of a building are not changed. A similar proposed amendment being made to R156-22 allows architects to engage in engineering work that is incidental to the practice of architecture if it affects an area not exceeding 3,000 square feet when structural elements of a building are not changed.
7. Aggregate anticipated cost or savings to:	
A) State budget:	
Affected:	No ___; Yes XXX
The Division will incur minimal costs of approximately \$100 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.	
B) Local government:	
Affected:	No XXX; Yes ___
The proposed amendments only impact professional engineers and structural engineers. As a result, the proposed amendments do not apply to local governments.	
C) Small businesses ("small business" means a business employing fewer than 50 persons):	
Affected:	No ___; Yes XX

The proposed amendments only impact professional engineers and structural engineers. The proposed amendments to the definition of incidental practice allow engineers to engage in architectural work that is incidental to the practice of engineering if it affects an area not exceeding 3,000 square feet when structural elements of a building are not changed. Under this amendment, some engineers will experience a financial benefit because it allows them to provide some incidental architectural services that they are unable to provide under the current rule. In these cases, some engineering firms may experience a financial benefit; however, the Division is unable to estimate the extent of the benefit.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No ☐; Yes ☒

The proposed amendments only impact professional engineers and structural engineers. The proposed amendments to the definition of incidental practice allow engineers to engage in architectural work that is incidental to the practice of engineering if it affects an area not exceeding 3,000 square feet when structural elements of a building are not changed. Under this amendment, some engineers will experience a financial benefit because it allows them to provide some incidental architectural services that they are unable to provide under the current rule. In these cases, some engineering firms may experience a financial benefit; however, the Division is unable to estimate the extent of the benefit.

8. Compliance costs for affected persons:

The proposed amendments only impact professional engineers and structural engineers. The proposed amendments to the definition of incidental practice allow engineers to engage in architectural work that is incidental to the practice of engineering if it affects an area not exceeding 3,000 square feet when structural elements of a building are not changed. Under this amendment, some engineers will experience a financial benefit because it allows them to provide some incidental architectural services that they are unable to provide under the current rule. In these cases, some engineering firms may experience a financial benefit; however, the Division is unable to estimate the extent of the benefit.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

The proposed amendment clarifies the definition of the term "incidental practice" to incorporate a statutory licensing exemption that allows for any person to design, alter, or repair a portion of an existing building, under specified circumstances, without holding an architect license. No compliance is required; therefore, businesses will not experience any compliance-related costs. Businesses that choose to operate under the licensing exemption may recognize new revenues, which will vary and cannot be estimated.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

Section 58-3a-101

Subsection 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

Section 58-3a-303.5

11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; *if none, leave blank*):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)		
Publisher		
Date Issued		
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference		
Action: Adds, updates, or removes		

(If this rule incorporates more than two items by reference, please attach additional pages)			
1	The public may submit written or oral comments to the agency identified in box 1. (The public may also request		
2.	a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i> . See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):		01/16/2013	
B) A public hearing (optional) will be held:			
On (mm/dd/yyyy):		At (hh:mm AM/PM):	At (place):
01/16/2013		9:00 am	160 East 300 South, Conference Room 474, Salt Lake City, Utah
1	This rule change may become effective on (mm/dd/yyyy):		01/23/2013
3.	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
1	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:		
4.	architects	licensing	
1	Attach an RTF document containing the text of this rule change		R156-3a.pro
5.	(filename):		
To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	11/26/2012

R156. Commerce, Occupational and Professional Licensing.

R156-3a. Architect Licensing Act Rule.

R156-3a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 3a, as used in Title 58, Chapters 1, 3a, and 22 or this rule:

(1) "ARE" means the NCARB Architectural Registration Examination.

(2) "Committee" means the IDP Committee created in Section R156-3a-201.

(3) "Complete and final" as used in Subsection 58-3a-603(1) means "complete construction plans" as defined in Subsection 58-3a-102(4).

(4) "EESA" means the Education Evaluation Services for Architects.

(5) "Employee, subordinate, associate, or drafter of an architect" as used in Subsections 58-3a-102(8), 58-3a-603(1)(b) and this rule means one or more individuals not licensed as an architect who are working for, with, or providing architectural services directly to the licensed architect under the supervision of the licensed architect.

(6) "Incidental practice" means "architecture work as is incidental to the practice of engineering" as used in Subsection 58-22-102(9) and "engineering work as is incidental to the practice of architecture" as used in Subsection 58-3a-102(6) which:

(a) can be safely and competently performed by the licensee without jeopardizing the life, health, property and welfare of the public;

(b) is secondary and substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession;

(c) is work in which the licensee is fully responsible for the incidental practice performed as provided in Subsection 58-3a-603(1) or Subsection 58-22-603(1);

(d) unless exempt from licensure as provided in Subsection 58-3a-304(1)(e), is work that affects not greater than 49 occupants as determined in Section 1004 of the 2009 International Building Code;

(e) unless exempt from licensure as provided in Subsection 58-3a-304(1)(e), is work included on a project with a construction value not greater than 15 percent of the overall construction value for the project including all changes or additions to the contracted or agreed upon work; and

(f) shall not include work on a building or related structure in an occupancy category of III or IV as defined in Section 1604.5 of the 2009 International Building Code.

(7) "Intern Development Program" or "IDP" as used in Subsection R156-3a-302(1) means a NCARB approved training program.

(8) "NAAB" means the National Architectural Accrediting Board.

(9) "NCARB" means the National Council of Architectural Registration Boards.

(10) "Program of diversified practical experience" as used in Subsection 58-3a-302(1)(e) means:

(a) current licensure in a recognized jurisdiction; or

(b) the training standards and requirements set forth in the Intern Development Program.

(11) "Recognized jurisdiction" as used in Subsections 58-3a-302(2)(d) (i) and (iii), for licensure by endorsement, means any jurisdiction that is a member of NCARB.

(12) "Responsible charge" by a principal, as used in Subsection 58-3a-102(7), means direct control and management by a principal over the practice of architecture by an organization.

(13) "Technical submissions", as used in Section R156-3a-601, means documents which are:

(a) required by public authorities for building permits or regulatory approvals; or

(b) intended for construction purposes, including all addenda and other changes to submissions.

(14) "Under the direction of the architect" as used in Subsection 58-3a-102(8), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of an architect" means that the unlicensed employee, subordinate, associate, or drafter of the architect engages in the practice of architecture only on work initiated by the architect, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of the architect.

(15) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 3a, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-3a-502.

KEY: architects, licensing

Date of Enactment or Last Substantive Amendment: ~~[July 30, 2012]~~ 2013

Notice of Continuation: January 31, 2011

Authorizing, and Implemented or Interpreted Law: 58-3a-101; 58-1-106(1)(a); 58-1-202(1)(a), 58-3a-303.5